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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: ED/00799**

**WHEREAS** a question has arisen as to whether a development comprising the change of use from a house to use as a residence by persons with an intellectual or physical disability or mental illness at Mylerstown, Naas, County Kildare is or is not development and is or is not exempted development:

**AND WHEREAS** David Durney of New Beginnings, Residential and Child Care Services of 12 Riverside Park, Newbridge, County Kildare requested a declaration on the said question from Kildare County Council and the said Council issued a declaration on the 4<sup>th</sup> day of September, 2020 stating that the said matter is development and is not exempted development:

**AND WHEREAS** David Durney referred the declaration for review to An Bord Pleanála on the 30<sup>th</sup> day of September, 2020:

**AND WHEREAS** An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) section 3(1) of the Planning and Development Act 2000, as amended,
- (b) article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,
- (c) Schedule 2 Part 1 Class 14(f) of the Planning and Development Regulations, 2001, as amended, and
- (d) the nature and scale of the proposed use as a residence for young persons with an intellectual or physical disability or mental illness requiring care, attention or therapy:

**AND WHEREAS** An Bord Pleanála has concluded that –

- (a) the change of use of a house to use as a residence by persons with an intellectual or physical disability or mental illness constitutes a material change of use, and is therefore development, as defined in section 3 of the Planning and Development Act 2000, as amended,
- (b) this change of use comes within the scope of Class 14(f) of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended, and,
- (c) none of the restrictions on exemption set out in article 9(1) of these Regulations apply in this instance.

**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 5 (3) (a) of the 2000 Act, hereby decides that the change of use from a house to use as residence by persons with an intellectual or physical disability or mental illness at Mylerstown, Naas, County Kildare is development and is exempted development.

### **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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**Michelle Fagan**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board**

**Dated this            day of            2021**